IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 703 of 2007(H)

PETITIONER:

M/S. JANAVEDI TRANSPORT CORPORTION,
CHITTATTUKARA, VADAKKEKARA,
NORTH PARUR, REP. BY ITS MANAGING PARTNER,
K.S.SOMARAJ.

BY ADV. SRI.P.GOPALAKRISHNA MENON
SRI.M.JITHESH MENON

RESPONDENTS:

1. THE REGIONAL TRANSPORT AUTHORITY
ERNAKULAM.

2. THE SECRETARY,
REGIONAL TRNASPORT AUTHORITY,
ERNAKULAM.

3. THE KERALA STATE ROAD TRANSPORT
CORPORATION, REP. BY ITS DISTRICT TRANSPORT
OFFICER, ERNAKULAM.

4. THE STATE TRANSPORT APPELLATE TRIBUNAL
ERNAKULAM.

R3 - BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.
R1, R2 & R4 BY GOVT.PLEADER SRI M.A.FAYAZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN,J.

W.P.(C).NO.703 OF 2007

Dated this the 8th day of January, 2007

JUDGMENT

Petitioner challenges Ext.P6 judgment of the State Transport Appellate Tribunal. He applied for a regular permit on the route Kodungalloor-Kaloor bus stand which was rejected on the ground of scheme violation. The Appellate Tribunal found as follows:

> "...As per the decision in Rahul Tom's case even slight overlapping is not permissible. Bus subsequently the rigour was relaxed by notification dated 9/5/2006. As per that the overlappiing upto 10 kms. and not exceeding 1/20 of the distance of the route on which permit is claimed. **Here in this appeal the fact that there is overlapping**

from Kottappuram to Kodungalloor is not disputed. In the appeal memorandum it is stated that the route length is 32 kms...." (Emphasis supplied).

2. It was in these circumstances that the appeal was dismissed. Overlapping, in such circumstances, being a question of fact as found by the Tribunal, no relief can be granted. Though the learned counsel for the petitioner submitted that he will exclude the overlapping area and the application may be re-considered, such request cannot be granted while considering the correctness of the appellate order.

3. Accordingly, the writ petition dismissed. However, I make it clear that the dismissal of the writ petition will not stand in the way of the petitioner

seeking such relief by filing any fresh application.

P.R.RAMAN,
Judge.

kcv.